

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

ADVANCED ARCHITECTURAL METALS

Petitioner/Employer

and

Case 28-UC-230

**SOUTHWEST REGIONAL COUNCIL OF
CARPENTERS, UNITED BROTHERHOOD OF
CARPENTERS & JOINERS OF AMERICA**

Union

DECISION AND ORDER

A petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, has been carefully investigated and considered.

Pursuant to the provision of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Regional Director.

Upon the entire record in this proceeding, the Regional Director finds:

1. The Petitioner/Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. The Petitioner/Employer seeks to clarify a unit represented by the Union as follows:

INCLUDED: All production and maintenance work in the plant or plants of the Employer of Southern California and Nevada, including construction work to be performed by the Employer pursuant to the terms of the Shop Labor Agreement between Advanced Architectural Metal and the United Brotherhood of Carpenters and Joiners of America, Southern California

Nevada Southwest Regional Council of Carpenters and its affiliated Local Union #1780.

EXCLUDED: All work covered by Labor Agreement between United Builders and Contractors Association, Inc. and Southwest Regional Council of Carpenters and its affiliated Local Unions, United Brotherhood of Carpenters and Joiners of America dated 2001 –2004.

The proposed unit is the unit covered by the Shop Agreement, which as extended expired on March 15, 2003. The Shop Agreement, in a paragraph entitled, “Outside the Shop”, states:

When construction work is performed by the Employer with employees covered by the Agreement, the following conditions will be observed: The current hourly wage rate of the United Builders and Contractors Association (UBCA) Agreement shall include any and all contributions for fringe benefits required to be made under the (UBCA) Agreement to jointly administered trust funds.

The Petitioner/ Employer and the Union have been negotiating for a successor to the Shop Agreement. The investigation of the subject petition disclosed that the Petitioner/Employer seeks to clarify the bargaining unit because it asserts that the Union has taken the position that, if an agreement could not be reached as to the Shop Agreement, the UBCA Agreement would control the wages and benefits of unit employees working in the shop. The Petitioner/Employer objects to what it describes as, “ the Union’s attempt to unilaterally create a single bargaining unit.”

4. Clarification of the bargaining unit is not warranted inasmuch as the Union’s demand is not sufficient to invoke a UC proceeding. Although UC petitions are most frequently used to clarify unit placement issues, they have also been used to clarify unit scope issues. *Armco Steel Co.*, 312 NLRB 257 (1993). In UC proceedings, the Board determines what bargaining unit or units exist in fact after an employer’s reorganization or the parties’ agreement. *Id.* at 259. Here, there is no reorganization of the Employer nor have the parties

agreed to a new collective-bargaining agreement covering its shop employees. Rather, the Petitioner/Employer premises its petition on an alleged demand made by the Union in negotiations. The Petitioner/Employer has not acceded to this alleged demand, and the Union has not taken any action to enforce its alleged demand. Under the circumstances, I find that further proceedings on this petition are not warranted.

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is dismissed.

REQUEST FOR REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. The Board in Washington must receive this request by April 16, 2003. A copy of the request for review should also be served on the undersigned at the **Las Vegas Resident Office**.

Dated at Phoenix, Arizona, this 2nd day of April 2003.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director
National Labor Relations Board

385-7501-2501